

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 908.

YEE WON, PETITIONER,

v.

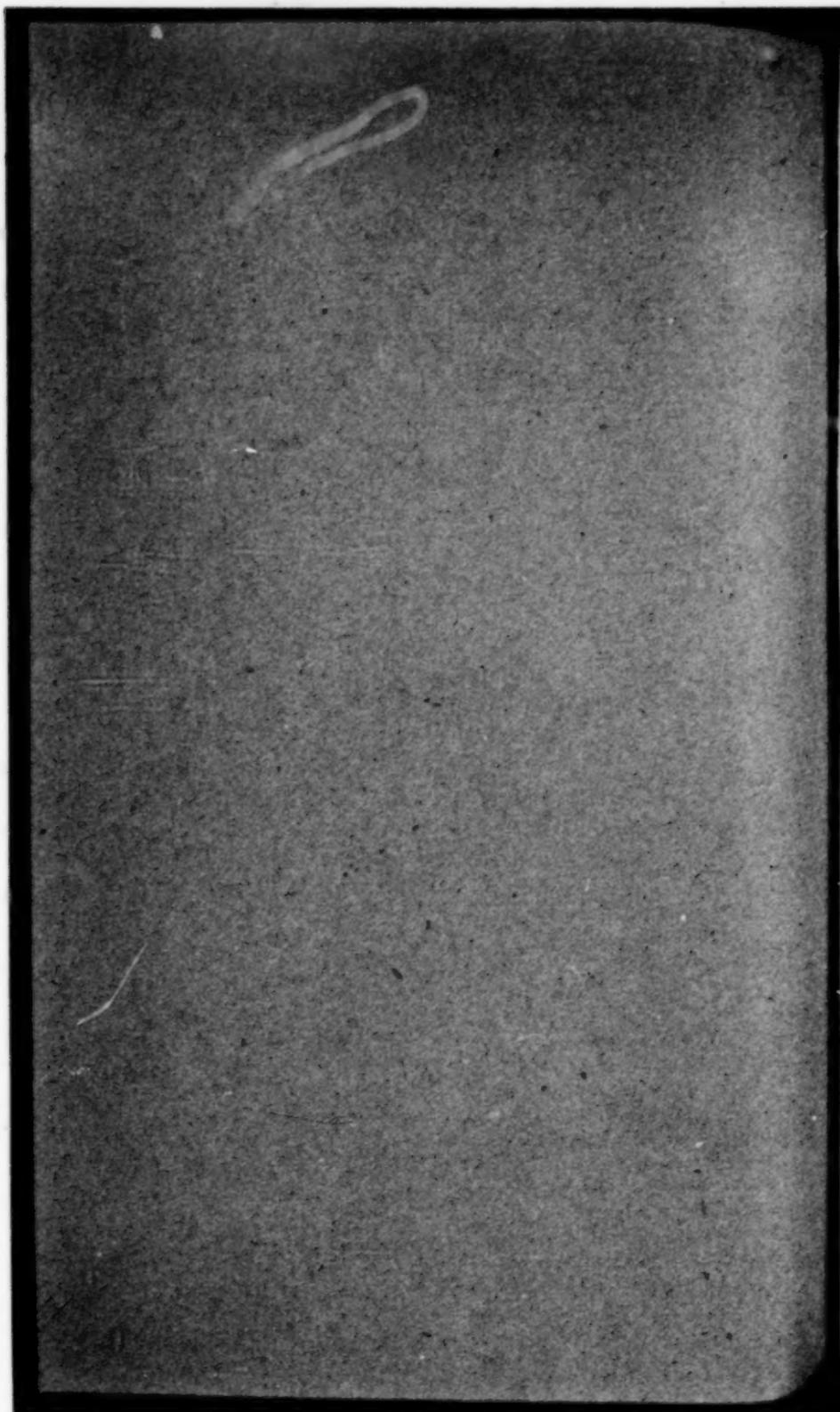
**EDWARD WHITE, AS COMMISSIONER OF IMMIGRATION,
PORT OF SAN FRANCISCO.**

**ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE NINTH CIRCUIT.**

MOTION FOR CERTIORARI FILED NOVEMBER 12, 1920.

OPINION AND JUDGMENT RENDERED NOVEMBER 6, 1920.

(27,369)



(27,389)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 209.

YEE WON, PETITIONER,

vs.

EDWARD WHITE, AS COMMISSIONER OF IMMIGRATION,
PORT OF SAN FRANCISCO.

ON WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE NINTH CIRCUIT.

INDEX.

	Page.
Caption	a
Transcript from the district court for the northern district of California	1
Names of attorneys.....	1
Præcipe for record on appeal.....	1
Petition for writ of <i>habeas corpus</i>	2
Order to show cause.....	8
Order as to filing immigration records, &c.....	10
Demurrer to petition.....	10
Order sustaining demurrer, &c.....	12
Notice of appeal.....	13
Petition for appeal.....	14

INDEX.

	Page.
Assignment of errors.....	15
Order allowing appeal.....	18
Citation (copy).....	19
Stipulation as to immigration record.....	20
Order as to immigration record.....	21
Order extending time.....	22
Clerk's certificate.....	22
Citation and service.....	23
Order of submission.....	29
Order filing opinion.....	30
Opinion	31
Decree	42
Order denying rehearing.....	43
Order staying mandate.....	44
Præcipe for record.....	45
Clerk's certificate.....	45
Writ of certiorari and return.....	46

No. 3259

United States
Circuit Court of Appeals
for the Ninth Circuit.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration,
Port of San Francisco,

Appellee.

Transcript of Record.

Upon Appeal from the Southern Division of the United States
District Court for the Northern District of
California, First Division.



Names of Attorneys.

For Petitioner and Appellant:

JOHN L. McNAB, Esq., and JOSEPH P. FAL-LON, Esq., Both of San Francisco, California.

For Respondent and Appellee:

UNITED STATES ATTORNEY, San Francisco, Calif.

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

In the Matter of CHIN SHEE, YEE TUK OY and YEE YUK HING, on Habeas Corpus.

Praecipe for Transcript on Appeal.

To the Clerk of said Court:

Sir: Please make up Transcript of Appeal in the above-entitled case, to be composed of the following papers, to wit:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Demurrer to petition.
4. Minute order regarding immigration record.
5. Judgment and order dismissing order to show cause and denying petition for writ.
6. Notice of appeal.
7. Petition for appeal.
8. Assignment of errors.

9. Order allowing appeal.
10. Stipulation and order regarding immigration record.
11. Clerk's certificate.
12. Citations on appeal—Original and copy.

JOHN L. McNAB,

JOSEPH P. FALLON,

Attorneys for Petitioner.

[Endorsed]: Filed Oct. 8, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [1*]

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. ——.

In the Matter of CHIN SHEE, YEE TUK OY, and YEE YUK HING, on Habeas Corpus.

Petition for a Writ of Habeas Corpus.

To the Honorable, The Southern Division of the United States District Court, for the Northern District of California, First Division:

Petition of Yee Won respectfully shows:

I.

That your petitioner is a Chinese person and a regularly domiciled merchant residing in the United States.

II.

That Chin Shee, Yee Tuk Oy and Yee Yuk Hing,

*Page number appearing at foot of page of original certified Transcript of Record.

the detained persons, on whose behalf this petition is made, are the wife, daughter and son respectively of your petitioner, and under the law entitled to enter the United States.

III.

That said Chin Shee, Yee Yuk Oy and Yee Yuk Hing are unlawfully imprisoned, detained, confined, and restrained of their liberty by Edward White, Commissioner of Immigration, at the port of San Francisco, at the Immigration Station of the United States, at Angel Island, or in some other place in the Northern District of California, and are about to be deported on a steamer, sailing from the port of San Francisco, at 1 P. M. on the 19th day of January, 1918; that the first notice of said decision and order of deportation was received by your petitioner on the 17th day of January, 1918. [2]

IV.

That the illegality of such imprisonment, restraint and confinement consists in this, to wit:

That the said Chin Shee, Yee Tuk Oy and Yee Yuk Hing made application to be admitted to the United States as members of the exempt class, and as the wife, son and daughter respectively of your petitioner; that subsequent to the said application to be so admitted to the United States, the said applicants were by the Secretary of Labor of the United States refused and denied a fair hearing in good faith, and were by the Secretary of Labor and the officials acting under him by a manifest abuse of the discretion committed to them by law, and against the letter and the spirit of the law, denied the right to enter the

United States, and in this behalf your petitioner alleges:

That the said Chin Shee, Yee Tuk Oy and Yee Yuk Hing, during the month of July, 1917, arrived at the port of San Francisco from China and made application to the Commissioner of Immigration at the port of San Francisco, for admission to the United States, as the wife and minor children, respectively, of your petitioner; that your petitioner is a regularly domiciled Chinese merchant and a member of the exempt class, as so defined by the Chinese Exclusion Law and as members of said class, the applicants were entitled to be landed.

That said application for admission was denied by said Commissioner of Immigration; that thereafter an appeal was taken therefrom to the Secretary of Labor, and the said decision of the said Commissioner of Immigration was sustained by the said Secretary of Labor; that said decision was unfair and illegal in this:

1. That said decision is not based upon any material discrepancies appearing in the testimony of your petitioner and the said applicants, and your petitioner is informed and believes and therefore alleges the fact to be that the relationship of your petitioner and his said family, the above-named applicants, has been fully established and conceded by the said Department of Labor. [3]

2. That your petitioner is informed and believes, and therefore alleges, the fact to be that the sole ground for the excluding decision was the finding that your petitioner did not belong to the exempt

class and was not a regularly domiciled merchant, but was in fact a laundryman, and therefore not being a member of the exempt class, the applicants could not be permitted landing in the United States; that said decision was arrived at by interviewing various persons in San Francisco, California, who had done business with a certain laundry and who testified from a photograph presented to them that that was the individual who delivered their laundry; that the matter was brought to the attention of the department to the effect that such evidence was not the best evidence that could be obtained, and that your petitioner should be entitled to a confrontation of said witnesses; the Department of Labor reopened the case and permitted said confrontation of said witnesses with the result that in each and every instance, they denied that your petitioner was the laundryman who delivered their laundry, or the person whose photograph they had seen; that notwithstanding this testimony, the Secretary of Labor illegally, and without any reason or ground therefor, refused and denied your petitioner's family, the above-named applicants, the right to land in the United States.

3. That there is no evidence of any kind, upon which to base this excluding decision; that all the evidence offered by your petitioner and Chin Shee, Yee Tuk Oy and Yee Yuk Hing, wife and children respectively of your petitioner was cast aside and disregarded and not considered by any of the persons above referred to and the said act is arbitrary, unreasonable and illegal.

4. That all of said testimony so taken and all orders and findings of said Commissioner of Immigration and said Secretary of Labor, and all other papers, documents and proceedings in said matter of the application of Chin Shee, Tee Tuk Oy and Yee Yuk Hing, for admission to the United States are as your petitioner is informed and believes, and therefore alleges, the fact to be, incorporated in the record of the application of said Chin Shee, Yee Tuk Oy and Yee Yuk [4] Hing, for admission to the United States, and are now in the possession of and subject to the control of the Secretary of Labor, and all of them are now inaccessible to your petitioner and the said applicants; that as soon as your petitioner is able to obtain a copy of said testimony, he will ask to amend this petition and make it a part thereof.

5. That your petitioner is informed and believes, and on such information and belief, alleges that certain evidence was introduced in said record and considered by the Immigration authorities that was not submitted to the above applicants, nor applicants' counsel; that said evidence was detrimental to the applicants and it was an abuse of discretion not to have allowed counsel the right to inspect the same; that the said Chin Shee, Yee Tuk Oy and Yee Yuk Hing, the said detained persons, have exhausted all their rights and remedies, and have no further remedy before the Department of Labor, and that unless the Writ of Habeas Corpus issue out of this court, as prayed for herein, directed to Edward White, Commissioner as aforesaid, in whose custody the bodies

of said Chin Shee, Yee Tuk Oy and Yee Yuk Hing are, the said Chin Shee, Yee Tuk Oy and Yee Yuk Hing will be deported from the United States to China without due process of law.

WHEREFORE, your petitioner prays that a writ of habeas corpus be issued by this Honorable Court directed to and commanding the said Edward White, Commissioner of Immigration, at the port of San Francisco, to have and produce the bodies of the said Chin Shee, Yee Tuk Oy and Yee Yuk Hing, before this Honorable Court, at its courtroom in the city and county of San Francisco, in the Northern District of California, at the opening of court on a day certain, in order that the alleged cause of the imprisonment, detention, confinement and restraint of said Chin Shee, Yee Tuk Oy and Yee Yuk Hing and the legality or illegality thereof may be inquired into, and in order that in case the said imprisonment, detention, confinement and restraint are unlawful and illegal that the said Chin Shee, Yee Tuk Oy and Yee Yuk Hing be discharged from all custody, imprisonment, confinement and restraint. [5]

Dated January 5th, 1918.

JOSEPH P. FALLON,
Attorney for Petitioner.

State of California,
City and County of San Francisco,—ss.

Yee Won, being first duly sworn, deposes and says:
That he is the petitioner named in the foregoing petition; that he has read the same and knows the contents thereof; that the same is true of his own knowledge except as to those matters herein stated

on his information and belief, and as to those matters he believes it to be true.

YEE WON.

Subscribed and sworn to before me this 17th day of January, 1918.

[Seal] VIRGINIA A. BEEDE,
Notary Public, in and for the City and County of San
Francisco, State of California.

[Endorsed]: Filed Jan. 17, 1918. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [6]

In the Southern Division of the United States District Court, in and for the Northern District of California, First Division.

No. 16,330.

In the Matter of CHIN SHEE, YEE TUK OY, and
YEE YUK HING, on Habeas Corpus.

Order to Show Cause.

Upon reading and filing the verified petition of Yee Won, praying for the issuance of the writ of habeas corpus,—

IT IS HEREBY ORDERED, that Edward White, Commissioner of Immigration, at the port of San Francisco, at Angel Island, be and appear before the above-entitled Court, Department No. 1 thereof, on Saturday, the 19th day of January, 1918, to show cause, if any he have, why a writ of habeas corpus should not issue in this matter, and the petition

granted as prayed, and this at the hour of 10 o'clock A. M. of said day; and

IT IS FURTHER ORDERED, that said Chin Shee, Yee Tuk Oy and Yee Yuk Hing, be not removed from the jurisdiction of this Court until the further order of this Court; and

IT IS FURTHER ORDERED, that a copy of this order be served on said Edward White or such other person having the said Chin Shee, Yee Tuk Oy and Yee Yuk Hing in custody as an officer of said Edward White.

Dated January 17, 1918.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Jan. 17, 1918. W. B. Maling,
Clerk. By C. W. Calbreath, Deputy Clerk. [7]

At a stated term of the District Court of the United States, for the Northern District of California, First Division, held at the courtroom thereof, in the city and county of San Francisco, State of California, on Thursday, the 21st day of March, in the year of our Lord, one thousand nine hundred and eighteen. PRESENT: The Honorable MAURICE T. DOOLING, Judge.

No. 16,330.

In the Matter of CHIN SHEE et al., on Habeas Corpus.

**(Order Regarding Filing of Immigration Records,
etc.)**

This matter came on regularly this day for hearing on order to show cause as to the issuance of a writ of habeas corpus herein. John L. McNab, Esq., was present for and on behalf of petitioner and detained. C. A. Ornbau, Esq., Assistant United States Attorney, was present for and on behalf of respondent, and filed demurrer to petition, and all parties consenting thereto, it is ordered that the Immigration Records be filed as Respondent's Exhibits "A" and "B," and that the same be considered as part of the original petition. After argument by the respective attorneys, the Court ordered that said matter be, and the same is hereby submitted. [8]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

**In the Matter of CHIN SHEE, YEE TUK OY, and
YEE YUK HING, on Habeas Corpus.**

Demurrer to Petition for Writ of Habeas Corpus.

Now comes the respondent, Edward White, Commissioner of Immigration at the port of San Francisco, in the State and Northern District of California, and demurs to the petition for a writ of habeas corpus in the above-entitled cause and for grounds of demurrer alleges:

I.

That the said petition does not state facts sufficient to entitle petitioner to the issuance of a writ of habeas corpus, or for any relief thereon.

II.

That said petition is insufficient in that the statements therein relative to the record of the testimony taken on the trial of the said applicant are conclusions of law and not statements of the ultimate facts.

WHEREFORE, respondent prays that the writ of habeas corpus be denied.

JNO. W. PRESTON,
United States Attorney,
CASPAR A. ORNBAUN,
Asst. United States Attorney,
Attorneys for Respondent.

[Endorsed]: Filed Mar. 21, 1918. W. B. Maling,
Clerk. By Lyle S. Morris, Deputy Clerk. [9]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

In the Matter of CHIN SHEE, YEE TUK OY, and
YEE YUK HING, on Habeas Corpus.

**(Order Sustaining Demurrer and Denying Petition
for Writ.)**

JOSEPH P. FALLON, Esq., Attorney for Petitioner.

JOHN W. PRESTON, United States Attorney, and
CASPAR A. ORNBAUN, Asst. United States
Attorney.

**ON DEMURRER TO APPLICATION FOR WRIT
OF HABEAS CORPUS.**

The record discloses here the fact that Yee Won is the husband of Chin Shee and the father of the minor children, Yee Tuk Oy and Yee Yuk Hing, who seek admission into this country as the wife and children of a domiciled merchant.

The record also shows that Yee Won is a man of means whose right to remain here is not apparently questioned. The immigration authorities found upon evidence that would seem to warrant the finding, that he has been engaged in driving a laundry wagon quite recently. This finding deprives him of the mercantile status to which he lays claim.

It is not absolutely certain, however, that, as he himself is entitled to remain, his wife and children may not be admitted as the wife and children of one rightfully in this country who is entitled to the companionship of the wife and care and comfort of the children.

The question has never to my knowledge, been so decided, and as it is a matter of grave moment, I think if such rule be laid down it [10] should be laid down by a higher tribunal. The wife and chil-

dren have been admitted on bonds pending this hearing, and this presents a fair case through which to have the question suggested definitely determined.

In the hope that this will be done and a rule of conduct established which will be of service to all, the demurrer is sustained and the application for a writ of habeas corpus denied. If appeal be taken, the wife and children will remain upon bonds until the final decision in the appellate courts.

Apr. 2, 1918.

M. T. DOOLING,
Judge.

[Endorsed]: Filed Apr. 3, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [11]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

In the Matter of CHIN SHEE, YEE TUK OY, and
YEE YUK HING, on Habeas Corpus.

Notice of Appeal.

To the Clerk of said Court, and to the Honorable JOHN W. PRESTON, United States Attorney in and for the Southern Division of the United States District Court, for the Northern District of California, First Division.

You and each of you will please take notice that Yee Won, the petitioner in the above-entitled

matter, hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit, from the order and judgment rendered, made and entered herein April 2, 1918, denying the petition for a writ of habeas corpus filed herein.

Dated April 9th, 1918.

JOSEPH P. FALLON,
Attorney for Petitioner.

[Endorsed]: Filed Apr. 15, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [12]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

**In the Matter of CHIN SHEE, YEE TUK OY, and
YEE YUK HING, on Habeas Corpus.**

Petition for Appeal.

Comes now Yee Won, the petitioner in the above-entitled matter, and respectfully shows:

That on the 2d day of April, 1918, a judgment and order was made by the above-entitled court and entered herein denying a writ of habeas corpus in the above-entitled matter and dismissing the petition of said petitioner for a writ of habeas corpus in which said judgment and order certain errors were committed to the prejudice of the above-named Chin Shee, Yee Tuk Oy, and Yee Yuk Hing, which will

more fully appear by his assignment of errors filed herewith.

WHEREFORE, your petitioner prays that an appeal may be allowed to the United States Circuit Court of Appeals, for the Ninth Circuit, for the correction of the errors so complained of, and that the clerk of the above-entitled court be directed to make and prepare a transcript of all the papers, proceedings and record of the above-entitled matter and to transmit the same to the United States Circuit Court of Appeals for the Ninth Circuit, within the time allowed by law, and for an order that the execution of the warrant of deportation of said Chin Shee, Yee Tuk Oy and Yee Yuk Hing be stayed pending this appeal.

Dated April 9th, 1918.

JOSEPH P. FALLON,
Attorney for Petitioner.

[Endorsed]: Filed Apr. 15, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [13]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

In the Matter of CHIN SHEE, YEE TUK OY, and
YEE YUK HING, on Habeas Corpus.

Assignment of Errors.

Now comes the petitioner Yee Won through his

attorney, Joseph P. Fallon, Esq., and sets forth the errors he claims the above-entitled court committed in denying his petition for a writ of habeas corpus, as follows:

I.

That said Court erred in not granting said petition for a writ of habeas corpus.

II.

That said Court erred in denying said petition for a writ of habeas corpus.

III.

That said Court erred in holding that the petition did not show or tend to show that said Chin Shee, Yee Tuk Oy, and Yee Yuk Hing did not obtain or were accorded a full and fair hearing or any legal hearing by said Immigration officers or by said Secretary of Labor.

IV.

That the Court erred in holding that the said Commissioner of Immigration and the Immigration Inspector acting under said Commissioner and the Secretary of Labor, did not totally and wholly disregard the testimony presented by said applicants and their witnesses and the records in the Chinese Division of the Department of Labor. [14]

V.

That the Court erred in holding that said Chin Shee, Yee Tuk Oy, and Yee Yuk Hing had been fairly examined by said Immigration officers.

VI.

That the Court erred in not holding that said Chin Shee, Yee Tuk Oy, and Yee Yuk Hing had been un-

fairly examined owing to the prejudicial conduct of said Immigration officials.

VII.

That the Court erred in not holding that the petitioner, Yee Won, is a merchant as defined by the Chinese Exclusion Laws, as enacted by the Congress of the United States.

VIII.

That the Court erred in not holding that the said Chin Shee, Yee Tuk Oy, and Yee Yuk Hing as the wife and children respectively of your petitioner, Yee Won, were not entitled to enter the United States.

IX.

That the Court erred in not holding that the petitioner, Yee Won, having been adjudged by the Immigration Officials as one who was lawfully in the United States and entitled to remain therein was not also entitled to the companionship of the wife and care and comfort of his children.

JOSEPH P. FALLON,
Attorney for Petitioner.

[Endorsed]: Filed Apr. 15, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [15]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

**In the Matter of CHIN SHEE, YEE TUK OY, and
YEE YUK HING, on Habeas Corpus.**

Order Allowing Appeal.

It appearing to the above-entitled court that Yee Won, the petitioner herein, has this day filed and presented to the above court his petition praying for an order of this Court allowing an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment and order of this Court denying a writ of habeas corpus herein and dismissing his petition for said writ, and good cause appearing therefor:

IT IS HEREBY ORDERED that an appeal be and the same is hereby allowed as prayed for herein; and

IT IS HEREBY FURTHER ORDERED that the clerk of the above-entitled court make and prepare a transcript of all the papers, proceedings and record in the above-entitled matter and transmit the same to the United States Circuit Court of Appeals, for the Ninth Circuit within the time allowed by law; and

IT IS FURTHER ORDERED that the execution of the warrant of deportation of said Chin Shee, Yee Tuk Oy, and Yee Yuk Hing, be and the same is hereby stayed pending this appeal and that said Chin Shee, Yee Tuk Oy, and Yee Yuk Hing be not removed from the jurisdiction of this Court pending this appeal; and that the said Chin Shee, Yee Tuk Oy, and Yee Yuk Hing remain at large upon bonds until the final decision in the appellate courts.

Dated April 15, 1918.

M. T. DOOLING,
United States District Judge. [16]

[Endorsed]: Filed Apr. 15, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [17]

(Citation on Appeal—Copy.)

UNITED STATES OF AMERICA,—ss.

The President of the United States, to EDWARD
WHITE, Commissioner of Immigration, Port
of San Francisco, and ANNETTE A. ADAMS,
United States Attorney, GREETING:

You are hereby cited and admonished to be and
appear at a United States Circuit Court of Appeals
for the Ninth Circuit, to be holden at the city of San
Francisco, in the State of California, within thirty
days from the date hereof, pursuant to an order al-
lowing an appeal, of record in the clerk's office of
the United States District Court for the Northern
District of California, Southern Division, wherein
Yee Won is appellant and you are appellee, to show
cause, if any there be, why the decree rendered
against the said appellant, as in the said order allow-
ing appeal mentioned, should not be corrected, and
why speedy justice should not be done to the parties
in that behalf.

WITNESS, the Honorable M. T. DOOLING,
United States District Judge for the Southern Divi-

sion of the Northern District of California, this 8th day of October, A. D. 1918.

M. T. DOOLING,
United States District Judge.

[Endorsed]: Service of the within Citation on Appeal and receipt of a copy is hereby admitted this 8th October, 1918.

ANNETTE ABBOTT ADAMS,
United States Attorney.

Filed Oct. 8, 1918. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk. [18]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

In the Matter of CHIN SHEE, YEE TUK OY, and YEE YUK HING, on Habeas Corpus.

Stipulation and Order Respecting Withdrawal of Immigration Record.

IT IS HEREBY STIPULATED and agreed by and between the attorneys for the petitioner and appellant herein, and the attorney for the respondent and appellee herein, that the original immigration record in evidence and considered as part and parcel of the petition for a writ of habeas corpus upon hearing of the demurrer in the above-entitled matter may be withdrawn from the files of the clerk of the above-entitled court and filed with the clerk of the United States Circuit Court of Appeals in and for

the Ninth Circuit, there to be considered as a part and parcel of the record on appeal in the above-entitled case with the same force and effect as if embodied in the transcript of the record and so certified to by the clerk of this court.

Dated San Francisco, California, October 8, 1918.

ANNETTE ABBOTT ADAMS,

By Asst. U. S. Att'y,

C. F. TRAMUTOLO,

United States Attorney for the Northern District of California,

Attorney for Respondent and Appellee.

JOHN L. McNAB,

JOSEPH P. FALLON,

Attorneys for Petitioner and Appellant.

Order.

Upon reading and filing the foregoing stipulation, it is hereby ordered that the said Immigration record therein referred to may be withdrawn from the office of the clerk of this Court and [19] filed in the office of the United States Circuit Court of Appeals for the Ninth Judicial Circuit, said withdrawal to be made at the time the record on appeal herein is certified to by the Clerk of this Court.

Dated October 8, 1918, San Francisco, California.

M. T. DOOLING,

United States District Judge.

[Endorsed]: Filed Oct. 8, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [20]

In the Southern Division of the United States District Court, for the Northern District of California, First Division.

No. 16,330.

In the Matter of CHIN SHEE, YEE TUK OY, and YEE YUK HING, on Habeas Corpus.

Order Extending Time to Docket Case.

Good cause appearing therefor, and upon motion of Joseph P. Fallon, Esquire, attorney for the appellant herein, it is hereby ordered that the time within which the record in the above-entitled cause may be docketed in the office of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit is hereby extended for a period of twenty (20) days from and after the date hereof.

Dated San Francisco, California, November 6th, 1918.

WM. W. MORROW,
United States Circuit Judge.

[Endorsed]: Filed Nov. 6, 1918. W. B. Maling,
Clerk. By C. M. Taylor, Deputy Clerk. [21]

**Certificate of Clerk U. S. District Court to Transcript
on Appeal.**

I, Walter B. Maling, Clerk of the District Court of the United States, for the Northern District of California, do hereby certify that the foregoing 21 pages, numbered from 1 to 21, inclusive, contain a full, true and correct transcript of certain records

and proceedings, in the matter of Chin Shee et al., on Habeas Corpus, No. 16,330, as the same now remain on file and of record in the office of the clerk of this court; said transcript having been prepared pursuant to and in accordance with the praecipe for record on appeal (copy of which is embodied in this transcript) and the instructions of the attorneys for petitioner and appellant herein.

I further certify that the cost for preparing and certifying the foregoing transcript on appeal is the sum of seven dollars and seventy-five cents (\$7.75), and that the same has been paid to me by the attorneys for the appellant herein.

Annexed hereto is the Original Citation on Appeal, issued herein (page 23).

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 8th day of November, A. D. 1918.

[Seal]

WALTER B. MALING,
Clerk.

By C. M. Taylor,
Deputy Clerk. [22]

(Citation on Appeal—Original).

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Edward White, Commissioner of Immigration, Port of San Francisco, and Annette A. Adams, United States Attorney, GREETING:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the city of San

Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the clerk's office of the United States District Court for the Northern District of California, Southern Division, wherein Yee Won is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant, as in the said order allowing appeal mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable M. T. DOOLING, United States District Judge for the Southern Division of the Northern District of California, this 8th day of October, A. D. 1918.

M. T. DOOLING,
United States District Judge. [23]

Service of the within Citation on Appeal and receipt of a copy is hereby admitted this 8th October, 1918.

ANNETTE ABBOTT ADAMS,
United States Attorney.

[Endorsed]: No. 16,330. United States District Court for the Northern District of California. Yee Won, Appellant, vs. Edward White, Commissioner of Immigration, and Annette Adams, United States Attorney. Citation on Appeal. Filed Oct. 8, 1918. W. B. Maling, Clerk. By C. M. Taylor, Deputy Clerk.

[Endorsed]: No. 3259. United States Circuit Court of Appeals for the Ninth Circuit. Yee Won, Appellant, vs. Edward White, as Commissioner of Immigration, Port of San Francisco, Appellee. Transcript of Record. Upon Appeal from the Southern Division of the United States District Court for the Northern District of California, First Division.

Filed November 25, 1918.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

[Endorsed]: Printed Transcript of Record. Filed December 31, 1918. F. D. Monckton, Clerk.



No. 3259

United States
Circuit Court of Appeals
for the Ninth Circuit.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration,
Port of San Francisco,

Appellee.

Upon Appeal from the Southern Division of the
United States District Court for the
Northern District of California,
First Division.

PROCEEDINGS HAD IN THE
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT.



At a stated term, to wit, the October Term, A. D. 1918, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the courtroom thereof, in the City and County of San Francisco, in the State of California, on Tuesday, the eleventh day of March, in the year of our Lord one thousand nine hundred and nineteen: Present: The Honorable WILLIAM B. GILBERT, Senior Circuit Judge, Presiding; The Honorable WILLIAM W. MORROW, Circuit Judge; The Honorable WILLIAM H. HUNT, Circuit Judge.

No. 3259.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner etc.,

Appellee.

Order of Submission.

ORDERED appeal in the above-entitled cause argued by Mr. Byron Coleman, counsel for the appellant, and by Mr. Ben F. Geis, Assistant United States Attorney, and counsel for the appellee, and submitted to the Court for consideration and decision.

At a stated term, to wit, the October Term, A. D. 1918, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the court-room thereof, in the City and County of San Francisco, in the State of California, on Monday, the twelfth day of May, in the year of our Lord one thousand nine hundred and nineteen. Present: The Honorable WILLIAM B. GILBERT, Senior Circuit Judge, Presiding; The Honorable ERSKINE M. ROSS, Circuit Judge; The Honorable WILLIAM H. HUNT, Circuit Judge.

IN THE MATTER OF THE FILING OF CERTAIN OPINIONS AND OF THE FILING AND RECORDING OF CERTAIN JUDGMENTS AND DECREES.

By direction of the Honorable William B. Gilbert, William W. Morrow, and William H. Hunt, Circuit Judges, before whom the cases were heard, ORDERED that the typewritten opinion this day rendered by this Court in each of the following entitled causes be forthwith filed by the clerk, and that a judgment or decree be filed, and recorded in the minutes of this court, in each of the causes in accordance with the opinion filed therein; * * * Yee Won, Appellant, vs. Edward White, as Commissioner of Immigration, Port of San Francisco, Appellee. No. 3259. * * *

*In the United States Circuit Court of Appeals, for
the Ninth Circuit.*

No. 3259.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration,
Port of San Francisco,

Appellee.

Opinion U. S. Circuit Court of Appeals.

Appeal from the Southern Division of the United
States District Court for the Northern District
of California, First Division.

Habeas corpus proceedings to secure the discharge
of Chin Shee, Yee Tuk Oy and Yee Yuk Hing, held
by the Commissioner of Immigration for deportation
as Chinese persons not entitled to enter the United
States under provision of the Exclusion Act. Ap-
peal from the order of the District Court sustaining
demurrer and denying petition for writ.

JOHN L. McNAB, JOSEPH P. FALLON, At-
torneys for Appellant.

ANNETTE ABBOTT ADAMS, United States At-
torney.

BEN F. GEIS, Assistant United States Attorney,
Attorneys for Appellee.

Before GILBERT, MORROW and HUNT, Circuit Judges.

MORROW, Circuit Judge:

The applicants, Chin Shee, Yee Tuk Oy and Yee Yuk Hing, wife and minor children of the appellant Yee Won, arrived at the port of San Francisco, California, on the S. S. "Tjisondari" July 16, 1917. They applied for admission to the United States as the wife and minor children respectively of Yee Won, who it is alleged was a regularly domiciled Chinese merchant and a member of the exempt class. Admission was denied by the Commissioner of Immigration on the ground that the status of Yee Won as a merchant had not been satisfactorily established.

On appeal to the Secretary of Labor, the excluding decision of the Commissioner of Immigration was sustained.

Yee Won thereupon filed a petition in the District Court for a writ of habeas corpus alleging an unfair hearing by the immigration officials and abuse of the discretion committed to them by law. The United States demurred to the petition and upon a hearing the Court dismissed the petition.

The case comes here on appeal with the record of the proceedings before the Commissioner of Immigration submitted in support of such matters as are presented by the petition for the writ of habeas corpus and the demurrer to the petition.

It appears from this record that Yee Won first applied for admission into the United States at the Port of San Francisco in April 1901, as the minor

son of a resident merchant. Yee Won was then twenty years of age. Admission was denied and he was deported. He returned in November of the same year and again applied for admission as the minor son of a resident merchant and was admitted. The father of Yee Won died in San Francisco in 1908. In the latter part of 1910 Yee Won applied to the Immigration officers at the port of San Francisco for an identification of his status. He was about to depart for China and it was his purpose to secure such an identification as would secure his admission upon his return. He made no claim that he was a merchant. His claim was that he was "a capitalist and property owner." He was granted such a certificate and departed for China in January, 1911. He returned on May 29, 1914. He was then 33 years of age. He claims to have married Chin Shee in China, March 2, 1911, and that a daughter Yee Tuk Oy was born to them November 28, 1912, and a son Yee Yuk Hing was born to them on November 2, 1913. These three are the present applicants to enter the United States. They were all born in China and this is their first application to enter the United States. In support of the application of Yee Won to have his wife and minor children admitted to the United States he testified that he was "a property owner and a capitalist," and in support of that claim exhibited to the immigration officers bank-books, certificates of stock and other documents showing that he was a person of means. He testified that he exported fruit from San Francisco to Tai Sang Fruit Co., at Sidney, New South Wales in the

years 1915, 1916 and 1917; that his firm in San Francisco was known as Tai Sang, a branch of the Australian house; that his place of business which was also the place where he lived, was 842 Washington Street, second floor, room No. 2; that his business in the years 1916 and 1917 amounted to \$20,000.00. There is no evidence that there was any fruit goods or merchandise at this place. He testified that the packing and shipping was done elsewhere. In the list of property submitted by Yee Won is a lease dated September, 1910, for premises designated as No. 2426 Sacramento Street, San Francisco, for the term of twenty years, commencing the first day of October, 1910, at the rate of \$25.00 per month during the first five years. Upon this and other testimony, the Immigration Inspector advised the Commissioner of Immigration that it was thought that the evidence offered was such as to justify the granting of the status of Yee Won as an exempt person, i. e., "a property holder and capitalist," and that he had done no labor during the last year past.

While the case was thus pending upon this report before the Immigration Commissioner, an anonymous letter was received by the Commissioner stating that Yee Won was not a merchant but a laundryman at Sacramento and Fillmore Streets. A further investigation of the case was immediately ordered. The place mentioned in the anonymous letter as Sacramento and Fillmore Streets was found to be 2426 Sacramento Street, which Yee Won had previously listed in his property schedule as having under lease. It was also found that this place had been a

Chinese laundry for a number of years. The immigration officer proceeded to submit a photograph of Yee Won to a number of the patrons of the laundry, who identified him as the Chinese person who had driven a laundry wagon and delivered laundry from that place for a number of years. Yee Won was thereupon called for further examination, that he might be confronted by the persons who had identified his photograph as that of their laundryman. He failed to appear and the Commissioner of Immigration thereupon decided that the exempt status of Yee Won had not been established to his satisfaction and denied the admission of the applicant on that ground.

On appeal to the Secretary of Labor, the case was reopened to take further testimony as to the personal identification of Yee Won by the witnesses who had previously identified him by his photograph. Three of the witnesses were reported out of town and their statements were not obtained. The statements of two other witnesses identifying Yee Won as their laundryman were obtained, but one of them was later not positive about the identification. Yee Ging, a cousin of Yee Won, was produced as the laundryman these witnesses had identified as Yee Won. The photographs of Yee Ging and Yee Won are in the record, and the resemblance appears to be so questionable and doubtful that certainly from their features there represented one would not be likely to be mistaken for the other. The result of this supplementary inquiry was submitted to the Assistant Secretary of Labor at Washington, and upon the whole case the Secretary of Labor sustained the

exclusion decision of the Commissioner of Immigration at San Francisco and thereupon the case was brought to the District Court upon a petition of Yee Won for a writ of habeas corpus.

In the decision of the District Court upon the demurrer to the petition, the Court was of the opinion that the immigration authorities had found upon evidence that would warrant the finding that Yee Won had been engaged quite recently in driving a laundry wagon. This finding the Court was of the opinion deprived him of the mercantile status to which he laid claim, but the Court suggested the query, whether as Yee Won was "entitled to remain, his wife and children may not be admitted as the wife and children of one rightfully in this country who is entitled to the companionship of his wife and comfort of his children."

In this Court counsel for the appellant refers to this decision and says:

"It will thus be seen that the sole question is whether or not a Chinese person entitled to remain in this country by virtue of our treaty with China although held by the Immigration officials to have lost his status as a merchant, is entitled to have his wife and minor children admitted."

By the treaty between the United States and China concluded in November, 1880 (22 Stat. 826), excluding certain Chinese laborers from coming to the United States, it was provided, among other things, that "the limitation of suspension shall be reasonable and shall apply only to Chinese who may

go to the United States as laborers. Other classes not being included in the limitation."

It is also provided that certain Chinese subjects including "merchants" may "go and come of their own free will and accord." In Section 2 of the Act of November 3, 1893 (28 Stat. 7), Congress defined the terms "laborer" or "laborers" and "merchants" as follows:

"Sec. 2. The words 'laborer' or 'laborers' wherever used in this act, or in the act to which this is an amendment, shall be construed to mean both skilled and unskilled manual laborers, including Chinese employed in mining, fishing, huckstering, peddling, laundrymen, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation.

"The term 'merchant' as employed herein and in the acts of which this is amendatory, shall have the following meaning and none other: A merchant is a person engaged in buying and selling merchandise at a fixed place of business, which business is conducted in his name, and who during the time he claims to be engaged as a merchant, does not engage in the performance of any manual labor, except such as is necessary in the conduct of his business as such merchant."

In Section 1 of the Act of August, 1894, "Making Appropriations for Sundry Civil Expenses for the Government for the Fiscal Year Ending June Thirtieth, Eighteen Hundred and Ninety-Five, and

for Other Purposes" (28 Stat. 372-390), it was provided:

"In every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate Immigration or Customs officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of the Treasury."

By the Act of February 14, 1903, entitled "An Act to Establish the Department of Commerce and Labor" (32 Stat. 825), the Commissioner-General of Immigration, the Bureau of Immigration and the Immigration Service were transferred from the Treasury Department to the Department of Commerce and Labor and by the Act of March 4, 1913 (37 Stat. 736-737), to the Department of Labor. Under this last statute an appeal from the decision of the immigration officers excluding an alien from admission into the United States lies to the Secretary of Labor. This was the procedure followed in this case.

In U. S. vs. Mrs. Gue Lim, 176 U. S. 459, it was held that the wives and minor children of Chinese merchants domiciled in this country might enter the United States without certificates. They come in by reason of their relationship to the husband and father, and whether they accompany him or follow him, a certificate is not necessary in either case.

That case was a deportation case over which the judicial department of the Government has exclusive jurisdiction. The present case is an exclusion case over which the immigration officers have exclusive

jurisdiction, providing that in the administration of the law they give the applicant a fair hearing and do not abuse their discretion.

The question submitted to the immigration officers was a question of fact. Was Yee Won a merchant? This fact had to be established to their satisfaction.

In the case of *In re Lee Lung*, 102 Fed. 132, a writ of habeas corpus was issued by the District Court upon the petition of Lee Lung, a merchant in Portland, Oregon, on behalf of his wife and daughter who had recently arrived at that port. His status as a merchant was not denied but a landing was refused his wife and daughter by the Collector of Customs. The writ was dismissed, the Court holding that it had no jurisdiction to review the action of the Collector in such proceedings. The case was taken to the Supreme Court of the United States where the judgment of the District Court was affirmed. (*Lee Lung vs. Patterson*, 186 U. S. 168-170.)

In the Supreme Court it was said:

"The testimony of several witnesses was introduced before the District Court against the objection of the district attorney. It showed that the petitioner was a merchant of Portland, Oregon; that he had gone back to China and there married Li Tom Shi according to the Chinese customs and with the usual Chinese ceremonies, but that he had another wife with whom he lived when in China, and that Li A. Tsoi was the daughter by that wife. It was testified that a man in China could have as many wives as he had means to support."

The objection to the landing of Li Tom Shi appears to have been that the laws of the United States did not recognize plural marriages, and while they might be so recognized in China, the said Li Tom Shi was not the valid wife of Lee Lung under our laws. The objection to the landing of Li A. Tsoi, the daughter of Lee Lung by his first wife, was that the evidence was conflicting and inconclusive and not of the satisfactory character required. The Court referring to the decision of the District Court holding that it was without jurisdiction to review the decision of the Collector of Customs, said:

"It was decided in Nishimura Ekiu's case that Congress might entrust to an executive officer the final determination of the facts upon which an alien's right to land in the United States was made to depend, 'and that if it did so, his order was due process of law, and no other tribunal, unless expressly authorized by law to do so, was at liberty to re-examine the evidence on which he acted, or to controvert its efficiency.' This doctrine was affirmed in Lem Moon Sing vs. United States, 158 U. S. 538, and at the present term in Fok Yung Yo vs. United States, 185 U. S. 296, and Lee Gon Yung vs. United States, 185 U. S. 306."

In conclusion, the Court said:

"But jurisdiction is given to the Collector over the right of the alien to land, and necessarily jurisdiction is given to pass on the evidence presented to establish that right. He may determine the validity of the evidence, or receive testimony to

controvert it, and we cannot assent to the proposition that an officer or tribunal, invested with jurisdiction of a matter, loses that jurisdiction by not giving sufficient weight to evidence, or by rejecting proper evidence, or by admitting that which is improper."

In *Low Wah Suey vs. Backus*, 225 U. S. 460-468, the Supreme Court has again declared the conclusiveness of decisions of the executive officers of the Government in this class of cases:

"A series of decisions in this court has settled that such hearings before executive officers may be made conclusive when fairly conducted. In order to successfully attack by judicial proceedings the conclusions and orders made upon such hearings, it must be shown that the proceedings were manifestly unfair, that the action of the executive officers was such as to prevent a fair investigation or that there was a manifest abuse of the discretion committed to them by the statute. In other cases the order of the executive officers within the authority of the statute is final. *United States v. Ju Toy*, 198 U. S. 253; *Chin Yow vs. United States*, 208 U. S. 8; *Tang Tun vs. Edsell*, 223 U. S. 673."

The District Judge in the present case did not find that a fair hearing had been denied the petitioner or that there had been any abuse of discretion on the part of the immigration officers in the proceedings and we do not so find, after a careful inspection of the record. *Chin Yow vs. United States*, 208 U. S. 812.

We conclude, therefore, that there was nothing in the case for the District Court to review and that the judgment of the Court dismissing the petition was correct.

The judgment of the District Court is accordingly affirmed.

[Endorsed]: Opinion. Filed May 12, 1919. F. D. Monckton, Clerk. By Paul P. O'Brien, Deputy Clerk.

United States Circuit Court of Appeals, for the Ninth Circuit.

No. 3259.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration, Port of San Francisco,

Appellee.

Decree U. S. Circuit Court of Appeals.

Appeal from the Southern Division of the District Court of the United States for the Northern District of California, First Division.

This cause came on to be heard on the Transcript of the Record from the Southern Division of the District Court of the United States for the Northern District of California, First Division, and was duly submitted.

On consideration whereof, it is now here ordered, adjudged and decreed by this Court, that the order

of the said District Court appealed from in this cause be, and hereby is, affirmed.

[Endorsed]: Decree. Filed and entered May 12, 1919. F. D. Monckton, Clerk. By Paul P. O'Brien, Deputy Clerk.

At a stated term, to wit, the October Term, A. D. 1919, of the United States Circuit Court of Appeals for the Ninth Circuit, held in the courtroom thereof, in the city and county of San Francisco, in the State of California, on Tuesday, the fourteenth day of October, in the year of our Lord one thousand nine hundred and nineteen. Present: The Honorable WILLIAM B. GILBERT, Senior Circuit Judge; The Honorable ERSKINE M. ROSS, Circuit Judge; The Honorable WILLIAM H. HUNT, Circuit Judge.

No. 3259.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration at the Port of San Francisco,

Appellee.

Order Denying Petition for a Rehearing.

On consideration thereof, and by direction of the Honorable William B. Gilbert, William W. Morrow, and William H. Hunt, Circuit Judges, before whom the case was heard, it is ORDERED that the petition, filed June 16, 1919, on behalf of the appellant for a

rehearing of the above-entitled cause be, and hereby
is denied.

*In the United States Circuit Court of Appeals for the
Ninth Circuit.*

No. 3259.

YEE WON,

Appellant,

vs.

**EDWARD WHITE, as Commissioner of Immigration,
Port of San Francisco,**

Appellee.

Order Staying Issuance of Mandate, etc.

Upon application of Mr. Joseph P. Fallon, coun-
sel for Yee Won, and good cause therefor appearing:

IT IS ORDERED: The mandate of this Court
under Rule 32 in the above-entitled cause be stayed
for a period of thirty days from the 19th instant, on
condition that the petition for writ of certiorari to be
made to the Supreme Court of the United States be
filed and docketed in said Supreme Court within the
time so extended, and submitted to said Supreme
Court agreeably to Subdivision 4 of Rule 37 of the
Rules of the said Supreme Court, and in that event
the said mandate be stayed until after the determina-
tion of said petition.

Dated San Francisco, Cal., October 17th, 1919.

WM. B. GILBERT,
Senior United States Circuit Court Judge.

[Endorsed]: Order Staying Issuance of Mandate,
etc. Filed October 17, 1919. F. D. Monkton, Clerk.

*United States Circuit Court of Appeals, for the Ninth
Circuit.*

No. 3259.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration,
Port of San Francisco,

Appellee.

Praecipe for Transcript of Record.

To the Clerk of the said Court:

Sir: Please make and furnish me with a certified printed Transcript of the Record (including the proceedings had in said Circuit Court of Appeals) and not less than nine uncertified copies thereof, for use on an application to be made to the Supreme Court of the United States for the issuance of a writ of certiorari under Section 240 of the Judicial Code, in the above-entitled cause, the said transcript to consist of a copy of the following:

1. Printed Transcript of Record on which the cause was heard in said Circuit Court of Appeals, to which will be added a printed copy of the following entitled proceedings that were had, and of the papers that were filed in said Circuit Court of Appeals, viz.:
2. Order of Submission, entered Mar. 11, 1919;

3. Order Directing Filing of Opinion, etc., May 12, 1919.
4. Opinion, filed May 12, 1919.
5. Decree, filed and entered May 12, 1919.
6. Order Denying Petition for Rehearing, entered Oct. 14, 1919.
7. Order Staying Issuance of Mandate, filed Oct. 17, 1919.
8. Praecept for Transcript of Record.
9. Certificate of Clerk U. S. Circuit Court of Appeals to said Transcript.

JOSEPH P. FALLOON,

Counsel for Appellant.

Service of a copy of the within Praecept is hereby admitted this 31st day of October, A. D. 1919.

ANNETTE ABBOTT ADAMS,

Counsel for Appellee.

[Endorsed]: Praecept for Transcript of Record.
Filed November 1, 1919. F. D. Monkton, Clerk.

*United States Circuit Court of Appeals for the Ninth
Circuit.*

No. 3259.

YEE WON,

Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration,
Port of San Francisco,

Appellee.

**Certificate of Clerk U. S. Circuit Court of Appeals to
Record Certified under Section 3 of Rule 37 of
the Rules of the Supreme Court of the United
States.**

I, Frank D. Monckton, as Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the foregoing forty-six (46) pages, numbered from and including 1 to and including 46, to be a full, true and correct copy of the entire record of the above-entitled case in the said Circuit Court of Appeals, excluding all original exhibits, made pursuant to practice of counsel for the appellant, filed on the 1st day of November, A. D. 1919, and certified under section 3 of Rule 37 of the Rules of the Supreme Court of the United States, as the originals thereof remain on file and appear of record in my office.

ATTEST my hand and the seal of the said the United States Circuit Court of Appeals for the Ninth Circuit, at the city of San Francisco, in the State of California, this seventh day of November, A. D. 1919.

[Seal]

F. D. MONCKTON,

Clerk.

By Paul P. O'Brien,

Deputy Clerk.

UNITED STATES OF AMERICA, ss:

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the Honorable the Judges of the United States Circuit Court of Appeals for the Ninth Circuit, Greeting:

Being informed that there is now pending before you a suit in which Yee Won is appellant, and Edward White, as Commissioner of Immigration, Port of San Francisco, is appellee, which suit was removed into the said Circuit Court of Appeals by virtue of an appeal from the District Court of the United States for the Northern District of California, and we, being willing for certain reasons that the said cause and the record and proceedings therein should be certified by the said Circuit Court of Appeals and removed into the Supreme Court of the United States, do hereby command you that you send without delay to the said Supreme Court, as aforesaid, the record and proceedings in said cause, so that the said Supreme Court may act thereon as of right and according to law ought to be done.

Witness the Honorable Edward D. White, Chief Justice of the United States, the twenty-eighth day of January, in the year of our Lord one thousand nine hundred and twenty.

JAMES D. MAHER,
Clerk of the Supreme Court of the United States.

[Endorsed:] File No. 27,389. Supreme Court of the United States, October Term, 1919. No. 634. Yee Won vs. Edward White, Commissioner of Immigration, Port of San Francisco. Writ of Certiorari. Docketed. No. 3259. United States Circuit Court of Appeals for the Ninth Circuit. Filed Oct. 29, 1920. F. D. Monckton, Clerk, By Paul P. O'Brien, Deputy Clerk.

In the Supreme Court of the United States, October Term, 1920.

No. 209.

YEE WON, Petitioner,

vs.

EDWARD WHITE, Comm'r.

Stipulation as to Return to Writ of Certiorari.

It is hereby stipulated by counsel for the parties to the above entitled cause that the certified copy of the transcript of the record now on file in the Supreme Court of the United States shall constitute the

return of the clerk of the United States Circuit Court of Appeals for the Ninth Circuit to the writ of certiorari granted therein.

October 19, 1920.

(Sgd.)

W. WALTON HENDRY,
Counsel for Petitioner.

(Sgd.)

WM. L. FRIERSON,
Solicitor General.

[Endorsed:] Stipulation as to return to writ of certiorari. Filed October 29, 1920. F. D. Monckton, Clerk, By Paul P. O'Brien, Deputy Clerk.

United States Circuit Court of Appeals for the Ninth Circuit,

No. 3259.

YEE WOX, Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration, Port of San Francisco, Appellee.

Certificate of Clerk U. S. Circuit Court of Appeals to Stipulation as to Return to Writ of Certiorari from the Supreme Court of the United States.

I, Frank D. Monckton, as Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, do hereby certify the preceding page to be a full, true and correct copy of a "Stipulation as to Return to Writ of Certiorari" filed in the above entitled cause on the 29th day of October, A. D. 1920, as the original thereof remains on file and of record in my office.

Attest my hand and the seal of the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 29th day of October, A. D. 1920.

[Seal of United States Circuit Court of Appeals, Ninth Circuit.]

F. D. MONCKTON, *Clerk,*
By PAUL P. O'BRIEN,
Deputy Clerk.

United States Circuit Court of Appeals for the Ninth Circuit.

No. 3259.

YEE WON, Appellant,

vs.

EDWARD WHITE, as Commissioner of Immigration, Port of San Francisco, Appellee.

Return to Writ of Certiorari.

By direction of the Honorable the Judges of the United States Circuit Court of Appeals for the Ninth Circuit, I, Frank D. Monckton, as Clerk of said Court, in obedience to the annexed writ of certiorari, issued out of the Honorable the Supreme Court of the United States and addressed to the Honorable the Judges of the United States Circuit Court of Appeals for the Ninth Circuit, commanding them to send, without delay, to the said Supreme Court the record and proceedings in the above-entitled cause, do attach to the said writ a certified copy of:

(1) Stipulation as to Return to Writ of Certiorari, the original of which said Stipulation was filed in said cause on this 29th day of October, A. D. 1920; and

(2) Respondent's Exhibits "A" and "B," and in accordance with said stipulation, do hereby send the certified copy thereof, together with the original exhibits, to the said Supreme Court as the Return to the said Writ of Certiorari.

In testimony whereof, I have hereunto set my hand and affixed the seal of the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 29th day of October, A. D. 1920.

[Seal of United States Circuit Court of Appeals, Ninth Circuit.]

F. D. MONCKTON, Clerk,
By PAUL P. O'BRIEN,

Deputy Clerk.

[Endorsed:] 209/27,389.

[Endorsed:] File No. 27,389. Supreme Court U. S., October Term, 1920. Term No. 209. Yee Won, Petitioner, vs. Edward White, as Commissioner of Immigration, etc. Writ of certiorari and return. Filed November 5, 1920.